Todd R. G. Hill
119 Vine Street
Belton, TX 76513
+1 [661] 899-8899
toddryangregoryhill@gmail.com
In Propria Persona

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UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

TODD R. G. HILL, et al,

Plaintiffs

vs.

THE BOARD OF DIRECTORS, OFFICERS AND AGENTS AND INDIVIDUALS OF THE PEOPLES COLLEGE OF LAW, et al.,

Defendants.

CIVIL ACTION NO. 2:23-cv-01298-JLS-BFM

The Hon. Josephine L. Staton
Courtroom 8A, 8th Floor

Magistrate Judge Brianna Fuller Mircheff
Courtroom 780, 7th Floor

PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE FIFTH AMENDED COMPLAINT; OPPOSITION TO DEFENDANT SPIRO'S PROCEDURAL OBJECTIONS AND MISCHARACTERIZATIONS (DKT. 337)

NO ORAL ARGUMENT REQUESTED

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PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE FIFTH AMENDED COMPLAINT; OPPOSITION TO DEFENDANTS' PROCEDURAL OBJECTIONS AND MISCHARACTERIZATIONS (DKT. 333)

TO THE HONORABLE COURT AND ALL PARTIES OF RECORD:

Predictably, Defendant Spiro's opposition (Dkt. 337) adds no new authority and primarily adopts the arguments raised in Haight's deficient opposition (Dkt. 333), while offering additional rhetoric that mischaracterizes both the procedural history and the governing legal standard. Notably, Spiro fails to engage with *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048 (9th Cir. 2003), or any binding precedent applying the liberal standard of Fed. R. Civ. P. 15(a)(2). Instead, he relies on conclusory assertions that the Fifth Amended Complaint is "confused" and "barely intelligible", claims that are plainly contradicted by his ability to cite and respond to specific paragraphs as well as respond to earlier versions of the complaint (See Docket 41).

Critically, Spiro conflates the Fed. R. Civ. P. 12(b)(6) standard for dismissal with the entirely separate and more permissive standard for amendment under Rule 15. This maneuver reflects a tactical attempt to preemptively litigate the sufficiency of the complaint, rather than engage with the controlling question: whether justice requires granting leave to amend at this stage. The Court has not been asked to adjudicate a motion to dismiss against the Fifth Amended Complaint, and it would be inappropriate to apply that standard when assessing a motion for leave.

Moreover, Spiro's filing confirms Plaintiff's central argument: that Defendants' true objective is not to resolve factual disputes but to avoid any adjudication on the merits by opposing amendment on procedural grounds alone. His assertion that Plaintiff "seeks to immunize himself from a ruling on Spiro's motion to dismiss" is not a legal argument but, in fact, an admission that Defendants fear the Fifth Amended Complaint will withstand Rule 12 scrutiny. That strategic fear, unsupported by

controlling caselaw, is not a valid basis to deny leave to amend under Rule 15. Plaintiff notes that the Motion for Leave to File the Fifth Amended Complaint (5AC) was filed in direct response to both Defendants' procedural objections and in good faith.

Finally, because Defendant Spiro expressly incorporates the arguments raised in Docket 333 into his opposition (Dkt. 337), Plaintiff likewise incorporates by reference all applicable rebuttals set forth in his prior response to the PCL Defendants (see Dkt. 338), to the extent not reiterated herein.

I. DEFENDANT SPIRO'S OPPOSITION LACKS LEGAL MERIT, RELIES ON RHETORIC, AND REINFORCES THE NEED FOR AMENDMENT

Defendant Spiro's opposition (Dkt. 337) fails to rebut the controlling legal standard under Rule 15(a)(2), instead offering conclusory, exaggerated claims of procedural burden and vague references to "defects" that lack citation to any legal authority supporting denial of amendment. As with his co-defendants, Spiro's filing rests not on substance but on a repetitive assertion that Plaintiff's proposed Fifth Amended Complaint is "too long" or "confusing," without addressing the specific clarifications and refinements made in response to both Court guidance and defense objections.

Notably, Defendant Spiro adopts by reference the arguments in Docket 333 but fails to acknowledge Plaintiff's prior motion to compel compliance with Local Rule 7-3 (Dkts. 261, 264), nor does he explain why a motion filed after express Court invitation and redline submission requires strict compliance with L.R. 7-3 in this instance. That omission, especially by an attorney of his experience, raises serious Fed. R. Civ. P. 11(b)(2) concerns, as it constitutes a misleading representation of both the procedural posture and governing law.

Furthermore, Defendant Spiro's personal criticisms and rhetorical flourishes—suggesting Plaintiff "cares little" for Court orders and likening the amendment process to a perpetual loop—do not replace legal argument. They merely reflect an emotional reaction to being procedurally outmaneuvered and fail to address the actual merits or mechanics of Rule 15 practice. If anything, they underscore the strategic motive behind the opposition: to preemptively insulate past deficiencies and procedural irregularities from further scrutiny.

In sum, Defendant Spiro's opposition is procedurally unsupported and substantively unpersuasive. It should be rejected for the same reasons stated in response to Docket 333 (see Dkt. 338), with additional weight given to its lack of legal grounding, disregard of the record, and inappropriate tone in light of Rule 11 obligations. The fact that Defendant Spiro, a licensee, makes no effort to correct either tone or omissions is particularly troubling, as it reflects a willful disregard for both the ethical duties owed to the Court and the procedural integrity of the litigation. Such conduct not only undermines the credibility of his opposition, it reinforces the necessity of allowing amendment so that the case may proceed on the merits rather than continue to be sidetracked by adversarial gamesmanship and rhetorical misdirection.

II. LEGAL STANDARD

Under **Federal Rule of Civil Procedure 15(a)(2)**, courts "**should freely give leave [to amend] when justice so requires.**" This directive embodies a strong federal policy in favor of resolving disputes on the merits rather than through technicalities or procedural traps. The Supreme Court in *Foman v. Davis*, 371 U.S. 178, 182 (1962), instructed that leave to amend should be granted absent a showing of:

a. undue delay,

b. bad faith or dilatory motive,

c. repeated failure to cure deficiencies by amendments previously allowed,

d. undue prejudice to the opposing party, or

e. futility of amendment.

In the Ninth Circuit, this liberal policy is further reinforced. As the court stated in *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003):

"This policy is 'to be applied with extreme liberality.'"

"[T]he consideration of prejudice to the opposing party carries the greatest weight."

Unless the opposing party demonstrates actual prejudice or a strong showing of another *Foman* factor, courts should grant leave. Speculative or conclusory assertions of confusion, burden, or futility do not satisfy this standard. See *United States v. Corinthian Colls., Inc.*, 655 F.3d 984, 995 (9th Cir. 2011).

Moreover, a motion for leave to amend is especially appropriate when, as here, it is submitted in direct response to the Court's instructions or in an effort to clarify allegations and streamline the pleading. See *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc) ("[W]e have repeatedly stressed that the court must remain guided by the underlying purpose of Rule 15, to facilitate decision on the merits.").

Where, as here, there is no showing of bad faith, undue delay, or prejudice, and where the proposed amendments respond to evolving procedural directives and new evidence, Rule 15(a)(2) mandates that leave to amend be granted.

III. RULE 15(A)(2) AND LOCAL RULE 7-3 – NO RIGID REQUIREMENT

Here, the Defendant does not seriously contest that Rule 15(a)(2) favors liberal amendment. Instead, his opposition mirrors and recycles generalized objections about clarity and duplication; in some cases, these objections were already rejected at the 12(b)(6) stage as it was applied to the Third Amended Complaint (TAC), and which ignore the streamlined, clarified and responsive nature of the 5AC. Spiro, similarly to the Haight-represented PCL Defendants, fails to identify any specific prejudice or undue burden that would result from amendment, and thus fails to rebut the strong presumption in favor of leave to amend under Ninth Circuit precedent. See *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003).

A. COURT-INITIATED FILING INVITATION SUPERSEDES L.R. 7-3

The Court expressly invited the filing of a redline version of the proposed amended complaint (Dkt. 311). When a filing is submitted in response to a court order or sua sponte invitation, courts routinely excuse or relax the pre-filing conference requirement of L.R. 7-3. Case law supports this flexibility where compliance would be superfluous or counterproductive to the orderly progress of litigation.

B. MISUSE OF RULE 12 ARGUMENTS TO EVADE THE LIBERAL STANDARD OF RULE 15

Spiro claims the Fifth Amended Complaint is "even more defective" than the Fourth and asserts it includes "improper incorporation" and "excessive length," echoing Rule 12(b)(6) and Rule 8[1] critiques. However, the proper inquiry under Rule 15 is not whether the proposed complaint would

[1] Notably, the Court has previously asserted Rule 8 compliance under the Third Amended Complaint, which included more defendants and causes of action than the streamlined Fourth Amended or proposed Fifth Amended Complaints (at Dkt. 312).

survive a motion to dismiss, but whether *leave to amend* should be denied due to a factor relevant to consideration of the Rule 15 standard. Spiro's opposition attempts to short-circuit this purpose by substituting *anticipated Rule 12 arguments* for the actual Rule 15 standard.

Rule 15 governs the **procedural right to amend**, not the **substantive viability of each claim**. The Court should reject any effort to "front-load" Fed. R. Civ. P. 12(b)(6) analysis into the Rule 15 stage. If the Defendants believe certain claims are still legally insufficient, they are free to file a Rule 12 motion **after leave is granted**, but they cannot preempt that process under Rule 15 by asserting premature conclusions of futility or burden. This latter fact further supports a lack of undue prejudice as well.

C. DEFENDANTS PREVIOUSLY OBJECTED TO LACK OF FORMAL MOTION

This Rule 15 motion therefore is not only timely and appropriate, it was necessitated by the defense's own objections. Having demanded a formal motion and now opposing that very filing as improper or excessive reflects a transparent attempt at procedural gamesmanship. Defendants are now seeking to weaponize the procedural path they themselves demanded to suppress the substance of the claims.

The Rule 15 motion was filed not as a new or surprise motion, but to satisfy Defendant's shared and repeated oppositions or objections (in Dkts. 321, 327, etc.) that no formal motion accompanied the May 19 filing. Thus, it was a procedural cure, not a contested motion filed in disregard of rules.

D. STRATEGIC TACTIC, NOT LEGAL REASONING

Spiro's maneuver is designed to prejudice the Court into rejecting the 5AC based on *subjective annoyance* or prior Court language, rather than current Rule 15 criteria.

Importantly, Plaintiff reiterates that Spiro fails to cite any Ninth Circuit authority denying amendment on length or incorporation grounds alone.

E. DEFENDANTS' ARGUMENT COLLAPSES UNDER ITS OWN CIRCULARITY

Defendants assert that Plaintiff is "once again trying to cure pre-existing deficiencies," implying a failed history of pleading. But merely labeling something a deficiency does not make it so, especially when no court has adjudicated the sufficiency of the Fourth Amended Complaint (4AC).

Plaintiff does not dispute that the complaint has been amended multiple times. Each amendment has reflected either new evidence, judicial directives, or procedural refinement, not failure. The Fifth Amended Complaint (5AC) was initially submitted to address arguments in the context of pendant Rule 12(b)(6) and Rule 59(e) motions, not as a reflexive correction. Unlike the cases where courts deny leave due to repeated deficiencies, To date, no court has found Plaintiff's claims in the 4AC legally deficient, and Defendants' pending motions remain unadjudicated. Their repeated assertions of failure are rhetorical, not judicial. Defendants' assertion of 'repeated failure' rests on their own unresolved motions, not any ruling by this Court.

Defendants' argument collapses under its own circularity: they claim Plaintiff has repeatedly failed, yet rely on their own objections, not a judicial finding, as proof.

On the contrary, the Fifth Amended Complaint (5AC) represents a disciplined, good-faith refinement of the operative pleading, consistent with both the Court's directive in Dkt. 311 and the liberal amendment standard under Rule 15(a)(2). Plaintiff did not submit the 5AC as a reflexive response to a dismissal order. It was filed at the Court's express invitation and paired with a redlined version that demonstrates, line by line, how the amended pleading responds to Defendants' inexhaustible allegations of deficiency. It consolidates, clarifies, and narrows the claims—precisely

what Rule 15 and the Court's directive envisioned. The redline itself, filed in full transparency, demonstrates unmistakably that:

1. Claims have been streamlined,
2. Parties have been omitted, and
3. Allegations have been reorganized for clarity, and

Notably, in the interim, judicial admissions (e.g., Dkt. 41) and newly produced evidence have been incorporated to update the record.

If anything, Defendants' reliance on their own unresolved motions to argue that Plaintiff has "failed" only highlights their attempt to preclude factual engagement by insisting that no complaint can ever be sufficient. That position not only distorts the Rule 15 standard, it undermines Rule 1's mandate to secure the just and efficient resolution of disputes.

Accordingly, Defendants' argument is not only unsupported by law or record, it is refuted by the procedural history, the Court's own instructions, and the redlined submission (Dkt. 313), which speaks for itself.

F. DEFENDANT SPIRO RELIES ON OUTDATED CRITICISMS TO EVADE MERITS REVIEW

Moreover, Defendant Spiro's opposition (Dkt. 337) doubles down on this flawed circularity by selectively quoting prior judicial comments regarding earlier versions of the complaint, without acknowledging that those comments predate the operative Fourth Amended Complaint, let alone the Fifth. Spiro points to length and incorporation critiques made in the context of pleadings that no longer govern, while ignoring that the 5AC was specifically crafted in response to the Court's more recent directive (Dkt. 311) and served with a comprehensive redline to show how those concerns were resolved. Spiro's effort to bootstrap outdated criticisms onto a substantially revised pleading not

only misleads the Court, it reaffirms that Defendants are not engaging with the complaint on the merits. Their goal is to foreclose any adjudication by framing amendment as inherently abusive, despite clear procedural compliance and visible, good-faith refinement. The Court should see through this tactic for what it is: a coordinated attempt to weaponize the amendment process against judicial efficiency.

G. NO PREJUDICE TO DEFENDANTS

Courts in the Ninth Circuit hold that failure to comply with L.R. 7-3 is not grounds for denial unless the noncompliance prejudices the opposing party. Spiro and Defendants have had weeks of notice of the proposed 5AC and its content, with a corresponding redline, which is clearly supportive of Plaintiff's assertion that none have been ambushed or disadvantaged.

H. CONSISTENCY WITH PRACTICE ON MOTIONS TO AMEND

Rule 15 motions are frequently resolved on the papers and may be summarily granted without L.R. 7-3 compliance when filed to address curative or technical defects. The Ninth Circuit's liberal standard for amendments ("freely given when justice so requires") disfavors rigid formalism.

IV. DEFENDANTS FAIL TO ESTABLISH "UNDUE PREJUDICE" UNDER THE CORRECT LEGAL STANDARD

Defendants fundamentally misstate the legal standard for "undue prejudice" under Federal Rule of Civil Procedure 15. The prejudice that matters is not the ordinary time and expense of defending a lawsuit, including filing motions to dismiss, but rather prejudice to the opposing party's ability to prepare a defense on the merits. Such prejudice typically involves the loss of evidence, the unavailability of witnesses, or the need to reopen discovery late in the proceedings.

None of those factors are present here. This case remains at the pleading stage. No discovery has commenced, and no trial date has been set. The proposed Fifth Amended Complaint streamlines and clarifies the allegations, which *reduces* prejudice to the Defendants by making the claims easier to understand and respond to. Their complaint about the cost of litigation is not a valid basis to deny leave to amend.

V. NO FUTILITY ARGUMENT PRESENTED

Defendant Spiro does not make a proper legal argument for futility.

A futility argument under Rule 15 requires a defendant to demonstrate that the proposed amended complaint is so legally flawed that it would fail to state a claim and would be dismissed under Rule 12(b)(6). This requires a substantive legal analysis of the claims themselves.

Spiro's opposition avoids this substantive analysis entirely. Instead, he attacks the proposed Fifth Amended Complaint on facially **formal and stylistic grounds**, i.e., He argues the complaint is "too long," citing prior court orders and that it uses "improper incorporation," pointing to specific paragraphs as examples.

Spiro never connects these statements to the legal standard of futility. Even, *arguendo,* in the context of his arguments that conflate 12(b)(6) standards, he does not argue that these alleged defects make it impossible for the Plaintiff to state a viable legal claim. Therefore, he has failed to make any, let alone proper, futility argument.

The opposition fails to address the binding factual admissions in Docket 41 and various other facts subject to judicial notice, which the Plaintiff has previously outlined, including in the concurrently pending judicial notice request (Dkt. 329). Instead of engaging with this factual evolution, Defendants revert to boilerplate accusations of repetition and confusion. Such arguments

are insufficient under *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048 (9th Cir. 2003), which holds that the presumption in favor of amendment is especially strong where there is no showing of bad faith or prejudice.

VI. OTHER DISINGENUOUS OR MISCHARACTERIZED ASSERTIONS INCORPORATED BY SPIRO IN DOCKET 337

A. DEFENDANTS' RELIANCE ON *SALAMEH* IS MISPLACED AS THIS AMENDMENT IS JUSTIFIED BY NEWLY-HIGHLIGHTED JUDICIAL ADMISSIONS AND PENDING JUDICIAL NOTICE REQUESTS

Defendants' reliance on *Salameh v. Tarsadia Hotel*, 726 F.3d 1124, 1133 (9th Cir. 2013) is misplaced because, unlike the plaintiff in that case, the amendments here have not been futile repetitions but responsive clarifications based on an evolving record. Crucially, Plaintiff has not had an opportunity to amend the complaint with the full benefit of Defendant Spiro's binding judicial admissions from his Answer (Docket 41), nor with information provided from a variety of pending motions for judicial notice, some of which were only recently highlighted for the Court.

The quote from *Salameh*, that a plaintiff cannot simply say "trust me" to gain another amendment, actually supports Plaintiff's position. Plaintiff is not asking the Court for its trust; he is presenting the Court with concrete, admitted facts from a key defendant that substantiate the amended claims. The Fifth Amended Complaint is therefore justified by new evidentiary developments, not a "repeated failure to cure deficiencies." Courts routinely grant leave to amend a complaint when new facts are discovered or when the significance of existing facts (such as binding judicial admissions) is brought to the Court's attention. An amendment is not a "repeated failure" in this context.

B. CORRECTING HAIGHT'S MISSTATEMENT OF EMINENCE CAPITAL'S BROADER PRINCIPLE

Defendants' narrow characterization of *Eminence Capital* is materially misleading. *Eminence Capital* emphasizes the Ninth Circuit's strong presumption in favor of amendment under Rule 15(a)(2), absent prejudice, bad faith, undue delay, or futility. (*Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d at 1052). The Ninth Circuit did not limit this standard exclusively to plaintiffs filing a single amended pleading; rather, it established a broadly applicable principle that leave to amend should be liberally granted unless defendants demonstrate substantial prejudice or futility, something Defendants have notably failed to do here.

C. DISTINGUISHING "REPETITIVE" VS. "RESPONSIVE"

Defendants inaccurately portray Plaintiff's amendments as repetitive failures to cure the same deficiencies. This is a fundamental mischaracterization. Plaintiff's amendments have consistently responded to evolving procedural instructions, specific judicial directives, and defendants' procedural objections. Plaintiff's filings explicitly reflect responsive clarifications, streamlining, and targeted refinements—not merely repetitive efforts to overcome unchanged pleading deficiencies. Defendant's allegation are contradicted by documented evidence, further highlighting credibility concerns.

D. HAIGHT'S, AND NOW SPIRO'S, LACK OF SUBSTANTIVE ARGUMENT AND EVIDENCE OF FUTILITY

Notably, Defendants provide no substantive argument or concrete examples demonstrating any incurable deficiency, futility, or prejudice. Their claim of Plaintiff's 'failure to cure fundamental deficiencies' is entirely conclusory, unsupported by evidence or detailed analysis. Under controlling Ninth Circuit precedent, conclusory assertions of futility without clear factual or legal substantiation fail to overcome the strong presumption favoring leave to amend. (See *Sonoma Cty. Ass'n of Retired Emps. v. Sonoma County*, 708 F.3d 1109, 1118 (9th Cir. 2013)).

E. EMPHASIZING THE LACK OF PREJUDICE TO DEFENDANTS

Defendants make no credible showing of prejudice or undue burden arising from Plaintiff's amended pleading. No new defendants are added, no discovery burden arises immediately, and Plaintiff's filings explicitly streamline and clarify allegations rather than complicate or confuse the litigation. Under Ninth Circuit law, including *Eminence Capital* itself, the absence of demonstrable prejudice weighs strongly in favor of granting leave to amend.

F. FALSE ASSERTION OF GAMESMANSHIP

Defendants repeatedly asserted that Plaintiff's proposed amended complaint (submitted on May 19, 2025) was not properly before the Court because it lacked a formal Rule 15(a)(2) motion. Plaintiff, in good faith and in the interest of procedural clarity, complied with that objection by submitting a properly noticed motion and attaching a previously docketed version of the proposed amended complaint in Dkt. 313.

Haight implies that Plaintiff is trying to delay or confuse by filing the 5AC. This is contradicted by:

1. The timing: The 5AC was submitted in the context of ongoing Rule 12(b)(6) briefings and, pursuant to the Court's subsequent request, was followed by a comparison document that was clearly marked and redlined.
2. The substance: The 5AC directly addresses previously alleged deficiencies by the defendants, demonstrating Plaintiff's intent to streamline and focus, not delay.

Haight deliberately conflates supplemental requests, procedural clarifications, and notices with formal amendments. The 5AC incorporates lessons from prior feedback, exactly what Rule 15 is meant to encourage.

G. SPIRO'S AMPLIFICATION OF THE FALSE NARRATIVE OF 'GAMESMANSHIP'

Moreover, Defendant Spiro amplifies this false narrative by inserting ad hominem criticisms and portraying Plaintiff's procedural diligence as manipulation. Spiro's rhetoric, suggesting Plaintiff "cares little for Court orders" or files errata as a matter of habit, is not only unsupported by the record but stands in direct contrast to Plaintiff's documented efforts to comply with both judicial guidance and local rules. Plaintiff's filings, including Dkts. 261 and 264, reflect a consistent effort to compel proper procedure from all parties. Spiro's attempt to reframe good-faith procedural compliance as abuse is not merely incorrect, it reflects an intent to distract from his own tactical vulnerabilities and past procedural irregularities. This tactic, when combined with his adoption of Haight's arguments while ignoring the context of Plaintiff's motion history, reveals a pattern of misdirection rather than a principled opposition.

That Spiro would cast the maintenance of a transparent procedural record as evidence of gamesmanship reveals not only a fundamental misapprehension of the purpose of federal litigation, but also strongly suggests that his own credibility and commitment to fair process are warped by a desire to obscure, rather than clarify, the record.

H. IMPLAUSIBLE CLAIM OF CONFUSION

Defendants claim that the Fifth Amended Complaint (5AC) is vague and incomprehensible, yet they cite and respond to specific paragraphs with apparent ease, demonstrating their ability to selectively engage with the pleading when it suits their position. This tactic mirrors the pattern established by Defendant Spiro: invoking confusion as a shield against substantive engagement, while simultaneously parsing and challenging discrete allegations when convenient. Importantly, Defendants fail to address the prior response to an earlier iteration of the complaint, Dkt. 41, which contained significantly more causes of action and named more defendants than the now streamlined and narrowly tailored 5AC. Their silence on this point underscores the procedural inconsistency: if experienced counsel could meaningfully respond to a broader and more complex version of the complaint over a year ago, their claim of confusion now rings hollow and appears manufactured for tactical advantage.

I. TACTICAL INCONSISTENCY UNDERMINES CREDIBILITY

Defendant Spiro's opposition (Dkt. 337) relies heavily on the claim that the Fifth Amended Complaint (5AC) is "confused," "defective," and "barely intelligible." Yet, in the very same filing, he cites and critiques specific allegations, referencing particular paragraph numbers, summarizing their content, and characterizing them as overinclusive or improperly incorporated. This contradiction is telling. If the 5AC were truly so incoherent as to preclude meaningful response, it would be impossible for Defendant Spiro to selectively parse its provisions in support of his opposition.

This mirrors a broader pattern of tactical inconsistency. In Dkt. 41, Defendant Spiro previously filed a substantive Answer to an earlier complaint that was both longer and more complex, containing more causes of action and more named defendants. His current assertion of procedural chaos is therefore not only unconvincing, it is demonstrably manufactured. The Court should view this

strategic oscillation for what it is: an effort to exploit procedural rules as both sword and shield, objecting to amendment when inconvenient while simultaneously engaging with the text when he perceives it benefits his arguments for dismissal or avoidance.

Plaintiff respectfully submits that this pattern further supports a finding that Defendant Spiro's opposition is not grounded in a fair application of Rule 15(a)(2), but rather in an effort to preempt the merits through procedural gamesmanship. The Court should give such inconsistencies no weight and instead focus on the clarity, streamlining, and responsiveness embedded in the 5AC, as reflected by both the redline and the procedural record.

J. HAIGHT'S SELECTIVE QUOTATION AND MISLEADING FRAMING EVOKE RULE 11 CONSIDERATION

Plaintiff has previously, in Docket 338, noted Defendants' selective quotation and misleading framing of *Eminence Capital* risks materially misrepresenting controlling Ninth Circuit law. Under Fed. R. Civ. P. 11(b)(2), counsel has an affirmative obligation to fairly represent controlling authority and avoid distorted characterizations or misleading factual analogies. Plaintiff respectfully requests the Court evaluate Defendants' representations in this context accordingly.

Defendants' attempt to distinguish *Eminence Capital* fundamentally misstates both the factual context and controlling legal principles of that decision. *Eminence Capital* unequivocally establishes a strong presumption favoring amendment absent demonstrated prejudice, bad faith, or futility—none of which Defendants substantively address or support here. Plaintiff's amendments are explicitly responsive to this Court's instructions and defendants' procedural objections, not futile repetitions. Defendants' conclusory and unsupported characterization is insufficient under Ninth Circuit precedent and risks materially misrepresenting the controlling law. The Court should disregard

Defendants' misleading portrayal and grant leave to amend in accordance with the established liberal standard under *Eminence Capital* and Rule 15(a)(2).

This is yet another example of Docket 333's failure to fairly and accurately brief the relevant standards, further underscoring Defendants' ongoing pattern of procedural misdirection, unsupported assertions, and material misrepresentations of controlling authority.

K. DEFENDANT SPIRO'S RELIANCE ON HAIGHT'S FRAMING IS CALCULATED TO REINFORCE PROCEDURAL MISREPRESENTATIONS

Defendant Spiro's opposition (Dkt. 337) does not function as an independent legal critique of the Fifth Amended Complaint (5AC); instead, it expressly adopts and recycles the same mischaracterizations and omissions contained in Haight's opposition (Dkt. 333), without engaging the record or correcting the deficiencies already raised in Plaintiff's reply (Dkt. 338). This strategy is not coincidental; it is calculated. By borrowing Haight's flawed framing wholesale, Spiro seeks to insulate himself from accountability for advancing novel or unsupported legal positions, while simultaneously benefiting from the rhetorical impact of repeated, albeit misleading, narratives.

This tactic further underscores a pattern of coordinated procedural evasion. Rather than address the actual substance of the procedural posture of the 5AC, including the redlined clarifications, narrowed claims, and omitted parties, Spiro echoes Haight's generalized assertions of burden, confusion, and procedural abuse, all without acknowledging that those assertions have been rebutted and remain legally unsubstantiated. **This strategic mirroring is designed to create the illusion of unanimity among Defendants, when in reality it only magnifies the absence of any controlling authority or case-specific analysis that would justify denial of leave**.

Moreover, Spiro's reliance on Haight's arguments, despite their Rule 11 vulnerability as outlined in Docket 338, signals either a willful disregard for legal obligations or an attempt to diffuse

professional responsibility across counsel. In either case, the effect is the same: to mislead the Court into conflating well-documented procedural diligence with gamesmanship and to reframe corrective litigation conduct as abusive. Such reliance further erodes the credibility of both oppositions and strengthens the argument for allowing amendment in the interest of judicial efficiency, transparency, and Rule 1's mandate to secure just resolution.

VII. CONCLUSION

Spiro, like the previous, opposition improperly conflates Rule 12(b)(6) standards with the liberal amendment standard under Rule 15(a)(2), using past rulings and rhetorical repetition bypass the request for leave to amend without relevant or meritorious legal analysis. This conflation ignores binding precedent that an amended complaint must be shown to be unduly prejudicial or futile **on its face** to justify denial, not merely described as 'defective' or 'long.' Spiro's filing fail to adequately engage any Rule 15 factor and instead repackages dismissal arguments without confronting Plaintiff's curative redline, streamlined allegations, responsive posture or the appropriate standard for review. This procedural misframing reinforces Plaintiff's assertion: Defendants seek to preclude adjudication by resisting any amendment that might survive Rule 12 scrutiny, not because it fails as a matter of law, but because it objectively succeeds and will facilitate discovery and review on the merits.

Plaintiff reiterates that he has satisfied both the letter and spirit of Rule 15(a)(2). The Fifth Amended Complaint (5AC) was not filed in bad faith, nor as an effort to delay proceedings; it was filed in direct response to this Court's directive (Dkt. 311) and in good faith compliance with evolving procedural and evidentiary developments. The redlined version, submitted transparently and

after express invitation, demonstrates exactly how the 5AC clarifies and narrows the pleading, integrates newly available judicial admissions, and responds to both defense objections and the Court's prior concerns.

In contrast, Defendants now **uniformly** attempt to weaponize the very compliance they demanded, retreating to procedural objections untethered from Rule 15's liberal standard and unsupported by any showing of prejudice.

Accordingly, Defendants' current objections should be given no weight. They do not raise any valid basis under *Foman v. Davis* for denial. Rather, they reflect an ongoing effort to insulate themselves from scrutiny by relying on procedural inconsistencies of their own making, an approach the Court should now reject.

The defense's attempt to reframe Plaintiff's compliance as a defect, after claiming noncompliance in the first instance, is not just contradictory, it is emblematic of a broader strategy of abject procedural and substantive evasion. The record demonstrates that Plaintiff has met every procedural challenge with curative precision and in good faith. Rule 15(a)(2) motions filed in response to a court directive and opposing party objections are not only permitted, they are also required under standard federal practice.

Defendants conspicuously avoid addressing the newly raised judicial admissions, contradictions, and evidentiary supplements that support the 5AC. They do not, and cannot, explain how denying amendment would promote efficiency, resolve factual disputes, or advance justice. On the contrary, their strategy seeks to suppress discovery and stall litigation on procedural grounds already eroded by the record itself.

Moreover, both Haight and Defendant Spiro have consistently declined to engage in the meet-and-confer process in good faith, instead resorting to delay, ambiguity, or outright refusal when procedural engagement is required. The record, including Plaintiff's prior motion to compel compliance with Local Rule 7-3 (Dkts. 261, 264), demonstrates a clear pattern of avoidance rather than cooperation. Against that backdrop, any alleged deficiency in conference related to the present Rule 15(a)(2) motion is not only harmless, but disingenuous and mischaracterizes the procedural posture of the motion at issue. Defendants cannot obstruct procedural communication and then invoke its absence as a tactical objection. The Court should reject this manufactured defect as both inequitable and unsupported by the record.

Respectfully submitted,

Dated: June 23, 2025

Todd R. G. Hill
Plaintiff, Pro Se

STATEMENT OF COMPLIANCE WITH LOCAL RULE 11-6.1

The undersigned party certifies that this brief contains 5,128 words, which complies with the 7,000-word limit of L.R. 11-6.1.

Respectfully submitted,

June 23, 2025
Todd R.G. Hill
Plaintiff, in Propria Persona

Plaintiff's Proof of Service

This section confirms that all necessary documents will be properly served pursuant to L.R. 5-3.2.1 Service. This document will be/has been electronically filed. The electronic filing of a document causes a "Notice of Electronic Filing" ("NEF") to be automatically generated by the CM/ECF System and sent by e-mail to: (1) all attorneys who have appeared in the case in this Court and (2) all pro se parties who have been granted leave to file documents electronically in the case pursuant to L.R. 5-4.1.1 or who have appeared in the case and are registered to receive service through the CM/ECF System pursuant to L.R. 5-3.2.2. Unless service is governed by Fed. R. Civ. P. 4 or L.R. 79-5.3, service with this electronic NEF will constitute service pursuant to the Federal Rules of Civil Procedure, and the NEF itself will constitute proof of service for individuals so served.

Respectfully submitted,

June 23, 2025
Todd R.G. Hill
Plaintiff, in Propria Persona